

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4604 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

JAYANTILAL ASHABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR DIPAK M.DAVE FOR MR. AD OZA for Petitioners
MR BY MANKAD, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 04/08/2000

ORAL JUDGEMENT

1. In this petition under Article 226 of the Constitution of India, the petitioners have challenged the impugned order Annex.D, being illegal, discriminatory and unconstitutional and prayed to quash and set aside the same. It was stipulated in the impugned order that

grants will be paid to the educational institutions like the petitioner if educational institution owns and possesses land of 15 Acre.

2. Mr. B.Y.Mankad, learned AGP appearing for the State, in response to the query raised by the Court, has submitted that on the identical issue, number of petitions came be filed in the High Court being Spl.C.A. Nos.6129/90, 394/91 & Group. He has further submitted that the High Court (Coram : R.K.Abichandani, J), vide common judgment dated 28.7.2000, disposed of all such petitions with certain observations. Mr.Mankad places on record common judgment and prays that this petition should also be disposed of with similar observations.

3. I have gone through the averments made in the petition. I have also gone through the common judgment and order dated 28.7.2000 referred to above. I am satisfied that the point raised in this petition is squarely covered by the judgment delivered in Spl.C.A. No. 6129/90 and, therefore, this petition also requires to be disposed of by issuing identical directions. I would like to refer to relevant observations made in the common judgment and order dated 28.7.2000, which read as under :-

" Therefore, the Court cannot go behind the decision of the Government fixing the area of the land which is required for the purpose of teaching agriculture as the main craft. Therefore, the requirement of 15 Acres appearing in Rule 125 of such land maintained for the purpose of teaching agriculture cannot be relaxed by the Court. If the schools do not satisfy that requirement, obviously, they would not be eligible to get the grant under that Rule unless the Government in exercise of its discretionary powers otherwise directs. The area which is prescribed has relevance with the purpose for which the grant is given which is of teaching agriculture as a main craft. Without sufficient area of land, it would obviously be difficult for any school to teach agriculture as a main craft. Therefore, if the schools are denied the grant on the ground that they do not lawfully possess and maintain 15 acres of land for the purpose of teaching agriculture as a main craft, such stand taken up by the authorities cannot be said to be arbitrary or irrational.

The question as to whether the adequate

area of land as required by Rule 125 was lawfully possessed or not in all these cases cannot be gone into at this stage by this Court. Since the authorities had proceeded on an erroneous footing that ownership of land was the basic requirement for the purpose of eligibility for the grant under Rule 125, it would be necessary for them to reconsider the matter in light of decision of this Court that even lawful possession of the land by the school would qualify the school for the grant under the said Rule if it maintained 15 Acres of such land for the purpose of teaching agriculture as a main craft and other requirements of Rule 125 were satisfied. In this view of the matter, the impugned orders and actions in all these petitions to the extent that grants are withheld or refused on the ground of want of ownership of the land, are hereby set aside and the concerned authorities are directed to reconsider the case of all these petitioners in the light of the observations made in this judgment and pass fresh orders within two months from the date of the receipt of the writ of this order in accordance with law. It will be open for the petitioners to make representations in their respective cases as stated by their learned counsel within two weeks from today. If such representations are made, they will be duly considered before making the order."

3. In view of the facts and circumstances of the case, since this petition is also squarely covered by the common judgment and order dated 28.7.2000 referred to above, this petition is also disposed of subject to the observations and directions reproduced herein above. Rule is made absolute accordingly with no order as to costs.

4.8.2000 [C.K. BUCH, J]

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